IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 2417 of 1999

Between:

H.S.Bharmoji Rao son of H.K. Swamy Rao
Working Inspector Grade-I office ofthe Executive Engineer District Scheduled Caste Service Co-operative Society, Limited, R/o Anantapur

..... PETITIONER

AND

1 Managing Director
The AP Scheduled Caste Finance Corporation Limited, Hyderabad
2 The District Collector /President , Dist
Scheduled Caste service co-operative Society Limited, Anantapur
3 The Executive Engineer, District Scheduled
Caste Service co-operative Society Limited, Anantapur
4 K.Gopalkrishna
Draughtsman, office of the Executive Engineer, District Scheduled

Caste Service Co-Operative Society Ltd., Anantapur
5 M. Sreedhar Reddy
Draughtsman, office of the Executive Engineer, District Scheduled

Caste Service Co-Operative Society Ltd.,Anantapur
6 N. V. Konda Reddy Assistant Engineer, office at the
Executive Engineer, Dist., Scheduled Caste Service

Co-operative Society Limited, Anantapur
7 K.S.Ranganath Assistant Engineer, Presently on
Deputation in the office of the Zonal Manager, Industrial

Infrastructure Corporation, Anantapur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or order or direction more particularly in the nature of Mandamus declaring the action of the respondents in transferring un-official respondents 6 and 7 to Anantapur district from Cuddapah and Nellore district respectively as illegal and arbitrary as they could not have been transferred form one society to another society as all societies are separate units for all purposes of appointment, transfer etc., and also declaring the action of the respondent in promoting the un-official respondent 4 and 5 as Draughtsmen ignoring the petitioner's case as illegal, arbitrary and violative of Article 14 and 16 of the constitution and further declaring that the petitioner is entitled to be appointed by transfer/promoted as Assistant Executive Engineer and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.M.PANDURANGA RAO

Counsel for the Respondent Nos.1 to 3: MR.M.V.S.SURESH KUMAR S.C

for A.P Scheduled Caste

Finance Corporation Limited.

Counsel for Respondents 4 to 7 : None appeared.

The Court made the following :

THE HONOURABLE SRI JUSTICE

C.V.RAMULU

WP.No.2417 of 1999

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ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in transferring the unofficial respondents 6 and 7 to Ananthapur District from Cuddapah and Nellore districts respectively as arbitrary and illegal and also declare the actions of the respondents in promoting the unofficial respondents 4 and 5 as Draftsmen ignoring the petitioner's claim as arbitrary and illegal.

It is the case of the petitioner that he belongs to backward class community called Arya Katika. He is the only person belonging to BC-D community in the entire respondent's society in the Ananathapur district. He was, being sponsored by the employment exchange and subjected to selection process, selected and appointed as a Work Inspector Grade-II in the year 1986 by the District Collector-President, District S.C Service Co-operative Society Limited, Anantapur. While in service the petitioner passed AMIE, which is equivalent to BE qualification. In fact since the petitioner obtained graduation in engineering, he ought to have been appointed, as Assistant Executive Engineer, as there are number of sanctioned posts available, under G.O.Ms.No.200, Social Welfare (SCP.II) Department, dated 12-9-1995. However, the petitioner was promoted as Work Inspector Grade-I vide proceedings dated 26-9-1991 in the pay scale of Rs.1100-40-1500-50-2050, where as the unofficial respondents 4 and 5 who are appointed along with the petitioner as Work Inspector Grade –II with LCE qualification were promoted as Draftsmen on 28-9-1991 and 12-02-1992 respectively and they are drawing more salary than the petitioner. The petitioner in fact working as Work Inspector Grade-I and also having graduate qualification in engineering, therefore he ought to have been promoted in the place of respondents 4 and 5. The petitioner made a representation in this regard, but there was no response from the authorities concerned. Further, the

unofficial respondents 4 and 5 who are not graduate engineers were transferred from Nellore and Cuddapah districts to Anantapur district as Assistant Engineers. In fact each district is a separate unit for purpose of transfer, appointment and promotion. Therefore, the un-official respondents themselves can never be seniors to the petitioner when they are transferred to Ananthapur District. The petitioner made a detailed representation ventilating his grievance and seeking relief from the authorities concerned. But all representations went in vain. Hence, this writ petition.

Detailed counter affidavit has been field by the official respondents denying the allegations made by the petitioner. It is stated that the respondents 4 and 5 were appointed along with the petitioner as Work Inspectors. They were promoted as Draftsmen Grade –III according to their seniority under roster maintained in the office. Promotions are given as per the seniority of the selection panel vide proceedings dated 12-2-1992. In fact, the service of the petitioner was terminated due to paucity of funds with effect from 23-2-1989 and he was removed from service. However, he was again appointed on temporary basis as Work Inspector and he reported for duty on 26-9-1990 and the period of break in service from 23-2-1989 to 25-9-1990 was treated as continuity of service. Whereas, the respondents 4 and 5 were promoted as Draftsmen Grade III according to their seniority in the panel of appointment as Work Inspectors. The petitioner being junior to respondents 4 and 5 should not have any grievance for the respondents 4 and 5 being promoted to the post of Draftsmen. Insofar as the respondents 6 and 7 are concerned they are transferred from other districts and when they were transferred they were transferred, as Assistant Engineers to Ananthapur District. Therefore, the petitioner could not have any grievance for the reason by that time petitioner was not promoted as Assistant Engineer in the Ananthapur society. Therefore, the grievance of the petitioner is speculative and imaginary and is liable to be dismissed.

I have given my earnest consideration to the respective submissions of the learned counsel and gone through the material placed on Record.

At the out set, I am of the view that the grievance of the petitioner insofar as claiming seniority and promotion as Draftsman against respondents 4 and 5 and claiming seniority as Assistant Engineer over and above the respondents 6 and 7 is imaginary and speculative in the facts and circumstances of the case. The respondents 4 and 5 were seniors to the petitioner in the cadre of Work Inspector and therefore they have been rightly promoted. As far as the respondents 6 and 7

are concerned they have been transferred from their districts in the cadre of Assistant Engineers. Therefore, the petitioner cannot have any grievance as to seniority over and above the respondents 6 and 7. It is brought to my notice that during the year 1999 the petitioner also has been put in-charge Assistant Engineer in the respondent's society in a clear vacancy. Further the petitioner has acquired AMIE Decree, which is equivalent to BE immediately after entering into service of the society. Therefore, so far his eligibility for being promoted to the post of Assistant Engineer is not in dispute. The only dispute was that the petitioner being junior to respondents 4 and 5 could not have claimed promotion on par with them as Draftsmen or he could not have claimed seniority over and above the respondents 6 and 7 in the cadre of Assistant Engineers. Since the petitioner has already been working as In-charge Assistant Executive Engineer in the society from 1999, it is desirable that the respondent shall consider the case of the petitioner for regularization of his service in the cadre of Assistant Engineer from the date of making him in-charge of the said post since there is a regular vacancy available in the society.

The respondents are directed to consider the case of the petitioner for regularizing his services in the cadre of Assistant Engineer from the date when he was put in-charge of the said post if the post held by him is a regular vacancy and if he is otherwise eligible and he shall be put on to the pay scale attached to the said post notionally and pass appropriate orders, within a period of 3 months from the date of receipt of a copy of this order. There shall be no order as to costs.

01st July, 2005

grk

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SECTION OFFICER

To

1 Managing Director
The AP Scheduled Caste Finance Corporation Limited, Hyderabad
2 The District Collector /President , Dist
Scheduled Caste service co-operative Society Limited, Anantapur
3 The Executive Engineer, District Scheduled
Caste Service co-operative Society Limited, Anantapur

4. 2 CD copies

5. 1 CC to MRMOHAN RAO

6. 1 CC to MR.PANDURANGA RAO

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